IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2188 OF 1994

Kolhapur District Granulated
Fertilizer Co-op. Factory Ltd. ..Petitioner
versus
Collector of Kolhapur & Ors. ..Respondents

Mr. S. V. Sadavarte for the Petitioner.
Mr. V. S. Gokhale, AGP for the Respondents - State.

CORAM : D. G. DESHPANDE, J.
DATE : 19TH OCTOBER, 2006

ORAL ORDER :

1. Heard Counsel for the petitioner and the learned AGP for the State.

2. Petitioner is a Co-operative Society who applied to the Gram Panchayat for allotment of certain land to start the factory for production of fertlizer. Gram Panchayat accordingly granted them 5 acres of land that was sanctioned and approved by the Collector. Thereafter, i.e. after 11 years when the factory was established and started functioning, the Collector reviewed this order vide Exhibit 'E' of this petition and he has observed that the Gram Panchayat had no right to directly

transfer the land to the petitioner and that the Gram Panchayat should have transferred the land to the State and then as per the Rules the land should have been transferred to the petitioner. Therefore, he cancelled the order dated 31.12.1965. Exhibit 'E' is dated 5.2.1994 i.e. the order impugned herein.

3. Passing such an order after 30 years when petitioner had already erected a factory and started production of fertilizers and that too on the ground of such a technical lacuna, was not at all proper. Gram Panchayat had not followed the procedure properly, looking to the facts and the lapse of period of about 30 years, the Collector should have in his own authority validated the transfer. This impugned order is therefore perverse and is set aside. Government has powers to give post facto approval and sanction to such transactions. Therefore, petition is allowed. Impugned order dated 5.2.1994 is set aside. Collector to give post facto sanction to the transfer subject to whatever liability regarding payment of charges to the Government by the Petitioner. Petition disposed of accordingly. Rule is discharged. No order as to costs.

(D.G. DESHPANDE, J.)